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JAMES H. McKENNEY,
Clerk.

IN THE

Supreme Court of the United States.

EQUITY.—233.

ELMIRA KNEPPER,
Appellant,

vs.

JOHN A. SANDS,
Appellee.

Supplemental Brief Citing Cases Referred to by Attorney for Appellee on Oral Argument and Requested by the Court.

JOHN H. KING,
Attorney for Appellee,
Huron, S. D.

C. G. Burdoyne, Walker and Centre Streets, N. Y.

In the Supreme Court of the United States.

WASHINGTON, D. C.

ELMIRA KNEPPER, Appellant, AGAINST JOHN A. SANDS, Appellee.	233 Equity

Reference being made in the oral argument to certain cases and decisions by John H. King, attorney for the appellee, as touching on the case at bar, at the request of the Court, I give below the cases referred to.

The suit of the Chicago, Milwaukee & St. Paul Railroad Company vs. The Sioux City & St. Paul Company, 117 Sup. Ct. Repts., page 406, U. S. Report, page 928, Lawyers' Consolidated Addition, wherein the Court denied the claim of the Chicago, Milwaukee & St. Paul Railroad Company to all the lands in the overlapping limits, and held that they were only entitled to a moiety of the grant, but which, in fact, took 35,000 and odd acres of the 85,000 acres withheld and unearned from the Sioux City & St. Paul grant, which was in the original grant to them from the State of Iowa.

This suit was commenced by the Chicago, Milwaukee & St. Paul Company in 1879, and was not decided until March 27th, 1886, and this land was all situated

in O'Brien and Dickinson Counties, the title to which was held by the State, as it held the title to both grants, they both being in one act, although the lands now to be given to Chicago, Milwaukee & St. Paul Company were originally in the lands granted to McGregor Western Company, but declared forfeited by the state, and the grant adjusted as to the McGregor Company and resumed by the State and regranted to the Chicago, Milwaukee & St. Paul Company.

Hence the first section of the Act of 1884 Iowa Legislature relinquished all the Sioux City & St. Paul unearned lands to the Government, but section 2 directed the Governor not to certify those in O'Brien and Dickinson Counties, although cause not recited in the section, but if the Chicago, Milwaukee & St. Paul got the lands, the Governor was to patent the same to them as they had already been patented to the State long before.

Reference was also made to the case of United States vs. Sioux City & St. Paul Company, 159 Sup. Court Reports, page 349,—in Consolidated Reports Page 177, wherein the Supreme Court held that the State had given to the Sioux City Company all the lands to which it was entitled under the granting act of 1864.

The decision of Judge SHIRAS, sitting as Circuit Judge in the trial of these cases, and the case of Sands vs. Knepper, was decided in favor of Sands on the same theory or premises as the case of Manley vs. Tow, reported in full on page 241, Vol. 110 Federal Reporter, and in addition to the general questions herein involved, I call attention to page 243, wherein the court makes special reference to the second section of the Relinquishment Act of 1884, and the exception in the second section, or the certificate section, wherein the court recites the claim or contention of the Milwaukee Company that was the cause of the exception as to the lands in O'Brien and Dickinson Counties not being certified, the intention being to close up all transactions as to the Sioux City Company.

Quotation is also made in that opinion from the Lake Superior Ship Canal & Iron Company vs. Cunningham, 155 Sup. Court Reports, page 183, the United States Reports, old book, page 385.

Judge SHIRAS also rendered an Opinion in the case of Benner vs. Lane, one of those similar cases reported on page 408 in 116 Federal Reporter, following Tow vs. Manley. Same decree was entered in Sands vs. Knepper, but I do not find it as reported, but is the same question and same class of cases.

I do not find the decision of the Secretary of the Interior filed or reported in the case at bar. The principal case upon which the Secretary decided against the Homestead claimants and reversed the Commissioner of General Land Office and the Local Land Office, in the cases of which there was a large number was Manley vs. Tow, page 504, Vol. 29; Public Land Decision, Secretary of the Interior, pages 504 to 509 inclusive.

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